

1 because we had an administrative technical problem and some
2 filings that we did with the FCC. I asked him, well, what's
3 the extent of it? He said, well, I really don't know. I
4 said, well, find out and let me know.

5 Q Did he tell you how he had learned of the problem?

6 A No, not that I recall.

7 Q He didn't discuss with you any specific paths?

8 A Not that I recall, no.

9 Q So he raised the issue with you without having any
10 specific information to provide you?

11 A Right.

12 Q And then you called Mr. Nourain and asked him to
13 provide the list because there was a delay?

14 A Well, I think I probably called Tony, but Tony is
15 out in the field 70 percent of the time. So if Tony was
16 unavailable, I would have just called Behrooz directly.

17 Q But when you received the document, you didn't
18 review it.

19 A I looked at it. I saw the length of it which
20 didn't seem that extreme and I passed it to Peter.

21 Q And now if you take a look at the document, Time
22 Warner Cablevision Exhibit 35, there's what appears to be
23 Peter Price listed as a cc on the face of the document. Do
24 you see that?

25 A Yes.

1 Q Could you explain to me why you would have cc'd --
2 provided the document to Peter if he was identified as a
3 person that was receiving one from Mr. Nourain?

4 A I don't know that my copy had him cc'd on it.

5 Q Do you recall receiving a copy that didn't have
6 this notation?

7 A I don't recall specifically, you know, the
8 document itself, you know, whether it had a cc to Peter or
9 not. It's very possible that my copy was clean and that I
10 just gave it to Peter. Even if it wasn't, even if I got it
11 with Peter on it, I'd still give it to Peter to handle.
12 Because there is nothing I would do with this information.

13 Q You don't recall calling Mr. Price to provide him
14 with instructions --

15 A No.

16 Q -- on how to proceed?

17 A No.

18 Q So you were concerned about receiving the
19 information because there was a delay in getting it from
20 Mr. Ontiveros. So you called Mr. Nourain. You received the
21 document. You testified earlier that you don't recall
22 reviewing it. You pass it onto Mr. Price without making any
23 inquiry or any conversation with Mr. Price.

24 MR. BEGLEITER: Objection, Your Honor.

25 JUDGE SIPPEL: Yes, I will sustain the objection.

1 Just limit your questions to asking the witness what he did
2 next. What did he do?

3 THE WITNESS: Are you asking me a question now?

4 JUDGE SIPPEL: Well, I'll ask a question. What
5 did Mr. Price do with this information?

6 THE WITNESS: I assume that he would either
7 expedite the license or -- I don't know.

8 JUDGE SIPPEL: What do you recall that he did with
9 it?

10 THE WITNESS: I don't know what he did with it.

11 JUDGE SIPPEL: You have no recollection?

12 THE WITNESS: No.

13 JUDGE SIPPEL: He never got back to you on it?

14 THE WITNESS: At this -- I really don't remember
15 what, what he did with it. Peter's job was to take care of
16 the operation of the business. So if there was a problem
17 with something, I would give it to him and he would take
18 care of it.

19 JUDGE SIPPEL: So he never got back to you and
20 said or you never called and said whatever happened with
21 that problem or --

22 THE WITNESS: Usually if I did, he would just call
23 and say it was resolved. There's nothing specific in my
24 mind that I would remember him giving me a specific answer
25 or responding on a specific issue. I talk to Peter, you

1 know, five, six, eight, ten times a day. He's just down the
2 hall from me. So it's not, you know, whenever I walk down
3 the hall, I look at Peter. I say hi. What's going on? If
4 there's something going on, he'll tell me. If there's
5 nothing going on, he'll say it's quiet.

6 JUDGE SIPPEL: Did this have any, did this
7 situation when it came to your attention in the memo, did it
8 have any ranking of importance to you in terms of the
9 company's operations?

10 THE WITNESS: At the time I don't recall it being
11 an issue that was anything out of the ordinary. Our
12 licenses were being delayed. We had been delayed since the
13 first licenses we had filed with the FCC in 1991-92.

14 JUDGE SIPPEL: Did you sense this to be just a
15 routine matter at that time?

16 THE WITNESS: Yes.

17 JUDGE SIPPEL: And so you passed it up to Mr.
18 Price.

19 THE WITNESS: Yes.

20 JUDGE SIPPEL: Do you know how you did that? Did
21 you call him and say I've got something here for you, Peter?
22 Or did you walk it to his office? Or did you give it to his
23 secretary or did you fax it to him?

24 THE WITNESS: No, he was down the hall. I
25 probably wrote POP, please take care of or something.

1 JUDGE SIPPEL: Where does it go from there?

2 THE WITNESS: It goes directly to him.

3 JUDGE SIPPEL: Through who?

4 THE WITNESS: Through secretaries.

5 JUDGE SIPPEL: So this was not significant enough
6 it would prompt you to pick it up and walk down to his
7 office and say what are we going to do about this?

8 THE WITNESS: I really don't -- it might be. I
9 might have walked it. I don't know. I had asked for the
10 information. So it's possible I did walk it into him.

11 JUDGE SIPPEL: Are you just having difficulty with
12 recollection or --

13 THE WITNESS: No, no, no. I don't recall
14 specifically what I did with it other than I know I would
15 send it to Peter because that's what he handles. But
16 whether I sent it to him by interoffice mail which is my
17 secretary sits directly next to his office. So it goes out
18 of my out box which happens every 15 minutes and then my
19 secretary handed it to him or I walked it in, it all depends
20 on what I was doing at the time.

21 JUDGE SIPPEL: You were in town at that time
22 though.

23 THE WITNESS: I would assume I was in town, yes.

24 JUDGE SIPPEL: And you don't recall him getting
25 back to you about, I mean, at that particular point in time

1 anyway I'm saying, April 26, 27, 28, you don't recall him
2 coming back to you and saying that we've got something here,
3 we've got a problem here or here's what I'm doing or would
4 you like to participate in this or something like that?
5 Just zero. You don't recall anything more than Mr. Price --

6 THE WITNESS: Well, I don't really that we talked
7 about this specifically. It may be that what happened
8 within two or three days after this was he came in and said
9 we have a problem. We've turned on licenses that -- we've
10 turned on paths without licenses. And so this was not, the
11 emission designator issue was not really an issue any more.
12 It was really that we might have licenses that had not been
13 issued yet where we were delivering service which was a much
14 bigger problem than licenses being delayed.

15 JUDGE SIPPEL: Did he actually tell you that?

16 THE WITNESS: I think so, yes.

17 JUDGE SIPPEL: When was that?

18 THE WITNESS: The end of April, beginning of May.

19 JUDGE SIPPEL: Did you get many memos from
20 Mr. Nourain?

21 THE WITNESS: No.

22 JUDGE SIPPEL: And Mr. Nourain's office is not
23 located in the same building as yours, is that correct?

24 THE WITNESS: No he's located, he was located at
25 95th and Third Avenue.

1 JUDGE SIPPEL: Is that still an operative office?

2 THE WITNESS: Yes. It's not one of our offices,

3 but --

4 JUDGE SIPPEL: You have no control over it

5 anymore?

6 THE WITNESS: No.

7 JUDGE SIPPEL: And where is Mr. Nourain working

8 now?

9 THE WITNESS: He's working for RCA.

10 JUDGE SIPPEL: I'd still like you to search your
11 recollection a little bit better here and see if you can
12 recall just what you did with this memo when you received
13 it. I mean, your testimony as I'm hearing it is that you
14 just simply passed it up to Mr. Price, really didn't give it
15 a thought. I mean, is that really what your testimony is?
16 Because you had asked for this information.

17 THE WITNESS: Yeah, but part of the, part of what
18 I do in the business is to make sure that the people who do
19 their job have the, have the information so they can do
20 their job. So if I heard that there was a disconnect in
21 part of the business and that one person couldn't get
22 something done because they didn't have information from
23 another part, I'd say, well, I want to see the report
24 because then I know that the information will get processed.
25 So a lot of times we'll tell people copy us on something so

1 that we know that they got the information. I may never
2 even read it. But people when they hear that it's being
3 copied to Milstein, they know that they have to respond to
4 it and do something about it.

5 JUDGE SIPPEL: Well, that's an interesting
6 rationalization and I don't -- I'm not trying to quarrel
7 with that. But all I'm saying is that to come back to my
8 specific inquiry here is that this is -- I hear you saying
9 that this was an out of the ordinary situation to request
10 information directly from Mr. Nourain where he would
11 communicate this memorandum to you. This was not the
12 routine way in which you dealt with your people and
13 Mr. Nourain and Mr. Ontiveros's office. Am I correct in
14 that assumption?

15 THE WITNESS: Yes.

16 JUDGE SIPPEL: And yet you can't recall anything
17 more than, and this is an assumption on your part really,
18 that you took the memo and you passed it onto Mr. Price. No
19 recollection of any instruction or anything specific with
20 respect to you in connecting you with this information and
21 with Mr. Price.

22 THE WITNESS: That's correct. But I have to do
23 this, I might get information like this not once every two
24 months. I can get this three times a day, whether it's from
25 this business or it's from one of my other businesses. So

1 it's not, it's not like I'm getting, that I have requested
2 information and it only happens to me once every three weeks
3 and so that I would remember a specific incident. If I ask
4 for information because I've been meeting with divisions or
5 I've been meeting with other people and I ask for it and I
6 pass it on, it's a regular occurrence in my daily business
7 life.

8 JUDGE SIPPEL: Do you have more to finish up on
9 this, Mr. Holt?

10 MR. HOLT: Yes, Your Honor.

11 BY MR. HOLT:

12 Q I believe your testimony was that within a couple
13 of days of receiving this memo, Mr. Price came to you and
14 told you that there appeared to be a problem with
15 unauthorized operations?

16 A Which memo?

17 Q The April 26th memo, Exhibit 95.

18 A Okay. Yes.

19 Q What causes you to believe that Mr. Price came to
20 you within a couple of days? Do you have that recollection?

21 A Just a vague recollection that I have, that I
22 remember hearing about the emission designator problem and
23 that shortly thereafter, the issue of service to unlicensed
24 paths came up.

25 Q Was Mr. Price alone, did Mr. Price visit your

1 office?

2 A I don't remember the specific encounter. I don't
3 know whether he called me on the phone or he walked into the
4 room. I think he walked into the room, but he could have
5 easily called me on the telephone.

6 Q Do you recall whether anyone else was present
7 during the conversation?

8 A No.

9 Q You don't recall or --

10 A I don't recall there being anybody with him, no.
11 Or on the telephone.

12 Q Can you relate to me in a more full way the
13 substance of the conversation?

14 A I think he said to me I think we have a problem.
15 I think there may be paths that have been turned on that are
16 unlicensed and, you know, we need to find out what the story
17 is.

18 Q Did he explain to you how he had discovered the
19 situation?

20 A Not that I recall, no.

21 Q Did he identify for you the extent of the problem?

22 A No.

23 Q He didn't tell you which paths?

24 A I honestly don't recall at this time what
25 specifically he said.

1 Q You didn't inquire about the extent of the
2 problem?

3 A Oh, sure. I said, well, what is the problem? And
4 I don't know that I got an answer.

5 Q Why was it that Mr. Price was coming to speak to
6 you about the problem?

7 A My brother probably wasn't in the office at the
8 time.

9 Q Was Mr. Price seeking guidance from you about how
10 to proceed?

11 A I think he was telling me, you know, the
12 information that he had at the time and wanted me to relate
13 it to my brother as soon as possible.

14 Q And Mr. Price had no other way of relating it to
15 your brother other than through you?

16 A Not if he wasn't in the, my brother wasn't in the
17 office. I mean, the likelihood is if my brother wasn't
18 there, he would be walking in the office at some point and
19 whether Peter was going to do something, you know.

20 Q How far is Mr. Price's office from your brother's?

21 A Down the hall. But he spends a lot of time out of
22 the office.

23 Q During the period around April 26th of '95, did
24 Liberty have a voice mail system?

25 A I have no idea.

1 Q Did you have any way of receiving voice mail
2 messages if somebody left you a message on the telephone?

3 A I don't have voice mail.

4 Q Do you know whether your brother did?

5 A My brother doesn't have voice mail.

6 Q Did Mr. Price explain to you, indicate to you what
7 if anything he needed to do with this information?

8 A Not that I recall, no.

9 Q Had he indicated to you that he had spoken to
10 anybody else about the situation?

11 A Not that I recall, no.

12 Q Was it an event you considered to be significant
13 in terms of -- a problem that you considered to be
14 significant in terms of Liberty's operations?

15 A At the time, I don't know that I considered it to
16 be true. I don't know that I really believe when Peter came
17 in and said they had this problem, I didn't really conceive
18 at the time that anybody could have turned on licenses,
19 could have turned on paths without license. I mean, it just
20 was not something that would happen.

21 Q So the President of the company was coming to you
22 to tell you that he believed that you had a problem with how
23 to commence service without authorization and you didn't
24 believe that it was true?

25 A I didn't believe that -- no.

1 Q So you didn't follow up with any inquiry about the
2 extent of the problem or about what you intended to do?

3 A No, I mean, within some period of time my brother,
4 you know, started an internal investigation to find out,
5 well, do we have this problem and what happened? I mean, my
6 job was not to, you know, start working on it. Within some
7 period of time, my brother, you know, my brother, either
8 Peter told my brother or I told my brother. And immediately
9 he called Lloyd and said, you know, we have to find out is
10 this true and what is the extent of it if it is true?

11 Q Did you participate in any of the conversations
12 leading up to or were there -- other than this conversation
13 you had with Mr. Price, did you discuss the situation with
14 your brother or anyone else at Liberty prior to the time a
15 call was placed to Mr. Constantine?

16 A My brother and I may have talked briefly about it.
17 But the first thing that -- when my brother heard, the first
18 thing he did was call Lloyd.

19 Q I don't want you to speculate. I'd like your best
20 recollection as to what you did following the conversation
21 you had with Mr. Price.

22 A I don't recall specifically what I did.

23 Q Well, give me a general recollection of the steps,
24 I'd like a sequence, a time sequence. What I'm trying to
25 figure out is what you did --

1 A Within an hour my brother, you know, was notified
2 and he called Lloyd.

3 Q You recall your brother being notified within an
4 hour?

5 A Yeah, something like that.

6 Q And do you recall how that communication was made?

7 A No.

8 Q How is it that you recall that he was notified
9 within an hour?

10 A Because if it was true, it was a big issue and I
11 would have been able to find him. You know, we have phones
12 in our cars. We have phones in our -- we have fax -- we
13 have phones everywhere. So if I needed to find him, I could
14 find him. You know, if he didn't come into the office at
15 the time, I would have been able to reach him.

16 Q You recall contacting your brother within an hour
17 after --

18 A I don't recall specifically contacting him, but
19 either he walked in the office and I told him we have a
20 problem that may be a problem or I called him and said, you
21 know, there's something that has to be dealt with, you know.
22 Let's deal with it.

23 Q And what is it that you said to your brother?

24 A Specifically, I don't recall.

25 Q Do you recall what your brother's reaction was to

1 this information?

2 A No, you have to understand. I spend eight hours,
3 between seven and eight hours a day with my brother, every
4 day for the last seven years, okay? So, for me to remember
5 what he's going to react to is, you know, I'm not going to
6 remember a specific reaction, okay? Other than if he
7 wanted, you know, well, when he starts yelling at somebody.
8 Some of those I remember, but not that often. Because he
9 does yell at people a lot.

10 Q Do you recall him yelling at anybody about this
11 situation?

12 A Oh, yeah. I remember him yelling at Peter about
13 it.

14 Q When did that yelling occur? The first time.

15 A I don't know, I don't know whether it was upon
16 hearing it the first time or it was upon if he confirmed the
17 first time. Sometime in between hearing it and it being
18 confirmed that we were delivering service without licenses.

19 Q Were you present for this yelling?

20 A At least one or two.

21 Q Let's talk about the first one.

22 A I -- for me to remember the specific one, what did
23 he say to Peter?

24 Q Yes.

25 A Whether -- it was to the effect of, you know,

1 could you have been that stupid? Could Behrooz have been
2 that stupid? How could you not have done something like,
3 you know. How could this have happened. But I don't recall
4 specifically the time or the date that it occurred.

5 Q You testified earlier that some over zealous
6 employees had decided to activate service without
7 authorization. I'm wondering which over zealous employees
8 you were referring to.

9 A To do this day I'm not sure whether it was Behrooz
10 or Tony who really turned on service without, you know,
11 whether Behrooz told Tony to turn it on or whether Tony
12 turned it on without talking to Behrooz. But somewhere in
13 between, one of them did something that they absolutely
14 never should have done, which was allow service to be turned
15 on without confirmation of a license in hand.

16 Q Approximately how long was it between the time
17 that you first learned that service commenced without
18 authorization and the time that Mr. -- was it Mr.
19 Constantine that confirmed that service had commenced
20 without authorization?

21 A No, I think Lloyd probably confirmed it with my
22 brother and my brother probably told me.

23 Q Do you recall the length of time between --

24 A I would think -- do I really recall? No. I would
25 think it was within a week.

1 Q Do you know whether during that -- was there an
2 investigation conducted or an inquiry conducted by Mr.
3 Constantine?

4 A Absolutely.

5 Q I want to focus on an inquiry between the time
6 that the issue first came up, the time that you were first
7 advised of the potential problem by Mr. Price and the time
8 it was confirmed. Do you recall how long -- well, let me
9 rephrase. What if anything did Mr. Constantine do to
10 confirm that the pass has been activated without
11 authorization?

12 JUDGE SIPPEL: Hold on just a minute now, Mr.
13 Holt. You're starting to get into that area of the private
14 investigation. I ruled that we're not going to inquire into
15 that.

16 MR. HOLT: Your Honor, I believe that there's,
17 there was two separate investigations. There was one
18 investigation that confirmed the information that Liberty
19 first learned on April 26th. Then there was a confirmation
20 and there was a subsequent investigation. And my
21 understanding is that the subsequent investigation, the
22 internal audit, was something that was separate and apart
23 from this initial investigation.

24 MR. BEGLEITER: Your Honor, that's accurate. The
25 only -- but I have an objection. My objection to the

1 question is how would he know what Mr. Constantine did?

2 JUDGE SIPPEL: Well, he can answer that question.

3 MR. BEGLEITER: That's right.

4 JUDGE SIPPEL: Why don't you ask him? Do you
5 understand the question, the timeframe, the first that you
6 knew of Mr. Constantine taking any action at all, what was
7 that action as far as you know?

8 THE WITNESS: I think he was talking to all of our
9 counsel who were involved in licensing and finding out what
10 information they had relative to licenses. He was talking
11 to all the employees. He was interviewing the employees to
12 find out what they knew about it. And that's when he knew.

13 BY MR. HOLT:

14 Q Did Mr. Constantine to your knowledge generate a
15 written report of the result of that initial investigation?

16 A Yes.

17 MR. BEGLEITER: No, I object to that question.

18 THE WITNESS: I've never read the report.

19 JUDGE SIPPEL: Wait just a second.

20 THE WITNESS: I've been told that there was a
21 report.

22 JUDGE SIPPEL: Wait just a second, just a second.
23 Do you have some information or some inkling that there are
24 two documents vis-a-vis what Mr. Constantine did?

25 MR. HOLT: That's the inquiry I'm trying to make,

1 Your Honor.

2 JUDGE SIPPEL: You don't know.

3 MR. HOLT: I don't know whether in fact there are
4 two documents. I'm seeking to know whether there are

5 MR. BEGLEITER: Your Honor, I shouldn't testify,
6 Your Honor.

7 JUDGE SIPPEL: Well maybe we should excuse the
8 witness. Would you mind stepping outside that door for a
9 couple of minutes, Mr. Milstein?

10 MR. BEGLEITER: The last thing the witness said
11 was I haven't read the report. There's one report and the
12 witness hasn't read it. There are no two reports.

13 MR. HOLT: I don't want to limit myself to
14 discussing a report. If Mr. Constantine created any sort of
15 memorandum or written confirmation of what he discovered
16 from that initial review, I'd like to separate that from the
17 internal audit. If any such document exists, I'd like to
18 make an inquiry.

19 MR. BEGLEITER: There is none.

20 JUDGE SIPPEL: Well, I mean, we've gone through
21 documentary discovery.

22 MR. HOLT: Yes, Your Honor.

23 JUDGE SIPPEL: All right. And we have assurances
24 now that we have seen everything that there is to see on
25 this and that you also had an index or a log of the

1 protected information and we've already made rulings on
2 that, that is the privileged information. And the only
3 thing left that hasn't been seen or looked at or considered
4 has been the private investigation, the audit, the audit
5 report which is now before the Court of Appeals which I said
6 we're not going to talk about.

7 MR. HOLT: Okay.

8 JUDGE SIPPEL: So I think that you've gotten, you
9 know, you've gotten more out of this witness on this point
10 than I had anticipated you were going to get. He said
11 anyway he hasn't read anything that -- well, I'm not going
12 to paraphrase it. You heard his testimony as well as I did.

13 MR. HOLT: I guess, Your Honor, the one thing that
14 I had questions about was the fact I believe earlier last
15 week while we were discussing document production that Mr.
16 Spitzer and Mr. Begleiter indicated that the Constantine
17 files hadn't been searched for relevant documents. And so
18 if there is --

19 JUDGE SIPPEL: I didn't hear that to be the case
20 at all. In fact, I specifically Mr. Begleiter and Mr.
21 Spitzer, I asked them that question with respect to all the
22 potential places which documents could be located. And I've
23 been told what the status is. So the only thing that's left
24 up in the air is really what came in Mr. Spitzer's
25 representation this morning.

1 MR. HOLT: I must have misheard, Your Honor. I
2 believe that --

3 JUDGE SIPPEL: I heard it. I asked the question
4 and I was told. So I'm not, I think that, you know, I don't
5 think that we're really getting at what this witness knows.
6 And it's 11:00 o'clock in the morning. I think we should
7 move on.

8 MR. HOLT: I'll proceed, Your Honor.

9 JUDGE SIPPEL: Okay. Would you please bring in
10 Mr. Milstein? In your absence, Mr. Milstein, we had some
11 discussion about what documentation had been made available
12 to all sides in this case and what documentation is not
13 going to be talked about and that's the sum and substance of
14 what was done in your absence. Mr. Holt.

15 BY MR. HOLT:

16 Q Mr. Milstein, during the period late 1994 through
17 let's say July of 1995, what if any involvement did you have
18 in reviewing financial projections to Liberty?

19 A Not any specific responsibility.

20 Q Did you have occasion during that period to review
21 financial projections?

22 A I don't specifically recall, but I might have.

23 Q To your knowledge was there someone at Liberty who
24 has responsibility for reviewing financial projections?

25 A It depends projections, you know, financial

1 projections of -- I don't understand what --

2 Q What I'd be interested in knowing is during the
3 period at issue, we'll say July '94 to July '95, was it
4 Liberty's practice to periodically create, periodically seek
5 to estimate the number of subscribers that it would have and
6 create financial projections based on subscribers?

7 A Not that I recall.

8 Q Do you -- what if any involvement did you have in
9 reviewing information about Liberty's cost for constructing
10 OFS facilities during that period of time?

11 A Whether it was an OFS facility if it was a
12 construction cost, I would look at it.

13 Q Is there a process by which you review figures
14 associated with Liberty's cost to construct microwave
15 facilities?

16 A Either through information I was being given or
17 through bills that I received.

18 Q Was it your responsibility during that period to
19 sign off on expenditures made by Liberty to construct OFS
20 facilities?

21 A I may have been signing checks at the time for the
22 construction.

23 Q And did you have an awareness during that period -
24 - what I'm interested in knowing is what process or what
25 your knowledge was with respect to construction of OFS paths

1 during that period based on your review of financial
2 information. Did you know --

3 A Financial information came after. I mean, our
4 people were building and, you know, as bills came in, you
5 know, we would look at them. If there was something that I
6 found to be wrong with the bill, I'd ask what it was for or
7 why. But other than that, they were building, they were
8 building systems.

9 Q And when you received the bill, did you have any
10 way of identifying which path the bill related?

11 A Possibly.

12 Q Or which received site might be a more helpful way
13 to ask it.

14 A Possibly. I mean, I don't specifically recall
15 now. But I don't know why there wouldn't have been
16 information about a -- some things were brought in general
17 and some things were brought for specifics. If a dish was
18 bought, it was probably bought for a location. But, you
19 know, the buying of the dish didn't necessarily have to do
20 with the timing of when it was finally put up. You know, we
21 would buy a dish and they'd say we signed a contract.
22 They'd say we bought a dish for it. It seems like a
23 reasonable thing to do.

24 Q But there was a process by which you monitored the
25 construction of facilities based on the amounts of money

1 were being expended for those facilities.

2 A No, really it's more of a spot check to make sure
3 that what we're spending is consistent with my understanding
4 of the costs of what we're buying. So, you know, if we got,
5 if we were buying 1,000 boxes, you know, the bill would be
6 for \$115,000.

7 Q What if any costs are associated with actually
8 activating a microwave pass?

9 A From what point?

10 Q Well, why don't you describe to me what points
11 could be in your mind?

12 A Are you talking about once it's constructed or
13 from the point where you haven't done anything yet?

14 Q Let's walk through from the point of contract or
15 from the point you haven't done anything yet -- let's focus
16 on the point that you haven't done anything yet.

17 A Okay.

18 Q Let's walk through.

19 A Okay. We'd order equipment.

20 Q What was it that would trigger an ordering of
21 equipment?

22 A A contract.

23 MR. BEGLEITER: Your Honor, I'd like to just raise
24 an objection. First of all, it's beyond the scope of
25 direct. But secondly, Your Honor, Mr. Milstein was offered

1 for a deposition. He came here. We made no restrictions on
2 the deposition and none of these questions were asked. This
3 is becoming a deposition session for Mr. Milstein.

4 JUDGE SIPPEL: Yes, I'm inclined to think the same
5 thing. I mean, we went through this with another witness
6 and we got established for the record I think what these
7 costs were through one witness whose credibility at least on
8 that score has never been challenged. So why do we have to
9 do this again? It's ten after 11:00 and I really should ask
10 the witness did you want to take a recess? I mean, we can -
11 - I thought maybe we would be able to finish up by just
12 sitting here until noon today, but if that's going to be a
13 problem I should ask the witness do you want -- counsel, do
14 you want to take a break?

15 MR. BEGLEITER: It's up to the witness.

16 MR. SPITZER: It depends on how much more there is
17 to go.

18 MR. HOLT: This is my last line of questioning,
19 Your Honor.

20 JUDGE SIPPEL: All right. Well, you can ask him,
21 I will permit that. Now, there is a standing instruction in
22 this case that witnesses are not to discuss their testimony
23 with one another, but that's so that they come to the
24 witness stand with a version that's fresh in their mind, not
25 somebody else's mind. But if you want to confront him with